

(5) The provisions of 49 U.S.C. 10705 and 10705a applicable to joint rates and through routes will be effective as to rates and routes applicable to boxcar traffic originating or terminating at an industry facility served physically by a Class III rail carrier.

(6) The following carriers are not regarded as Class III or unaffiliated Class II carriers for the purpose of this section:

Central New York Railroad Corporation  
Cooperstown and Charlotte Valley Railway Corporation  
Fonda, Johnstown & Gloversville Railroad Corporation  
Lackawaxen and Stourbridge Railroad Corporation  
New York, Susquehanna & Western Railway Corporation  
Rahway Valley Railroad Company  
Staten Island Railway Corporation.

(d) Carriers must continue to comply with Board accounting and reporting requirements. Railroad tariffs pertaining to the exempted transportation of commodities in boxcars will no longer apply. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Board.

[48 FR 20415, May 6, 1983, as amended at 50 FR 20419, May 16, 1985; 51 FR 32656, Sept. 15, 1986; 51 FR 32922, Sept. 17, 1986; 52 FR 37971, Oct. 13, 1987; 55 FR 41339, Oct. 11, 1990; 57 FR 53451, Nov. 10, 1992; 57 FR 56641, Nov. 30, 1992; 61 FR 26847, May 29, 1996]

#### **§ 1039.16 Exemption of new highway trailers or containers.**

The rail transportation of new highway trailers or containers (which is not otherwise exempt) is exempt from the provisions of 49 U.S.C. Subtitle IV, except that carriers must continue to comply with the Board's accounting and reporting requirements. This exemption will remain in effect unless modified or revoked by subsequent order of this Board.

[52 FR 17404, May 8, 1987]

#### **§ 1039.17 Protective service contracts exemption.**

Contracts for protective services against heat or cold, provided to or on behalf of rail carriers and express companies, are exempt from the requirements of 49 U.S.C. 11105. Nothing in this exemption shall be construed to affect our jurisdiction under section

10505 or our ability to enforce this decision or any subsequent decision made under authority of this exemption section. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Board.

[49 FR 19025, May 4, 1984]

#### **§ 1039.20 Storage leases.**

Storage leases for all equipment for all carriers are exempt from the provisions of 49 U.S.C. subtitle IV except for 49 U.S.C. 11123. Nothing in this exemption should be construed to affect our jurisdiction under section 10505 or our ability to enforce this decision or any subsequent decision made under authority of this exemption section. This exemption shall remain in effect, unless modified or revoked by a subsequent decision of this Board.

[51 FR 46675, Dec. 24, 1986]

#### **§ 1039.21 International joint through rates.**

Rail carriers are exempt from the provisions of § 1312.37 that require the filing of tariffs containing international joint through rates. Rail carriers must continue to comply with Board accounting and reporting requirements. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Board.

[51 FR 27046, July 29, 1986]

#### **§ 1039.22 Exemption of certain payments, services, and commitments from the Elkins Act and related provisions.**

(a) Whenever a rail carrier:

(1) Provides payments or services for industrial development activities; or,  
(2) Makes commitments regarding future transportation;

and reasonably determines that such payments, services or commitments would not be eligible for inclusion in rail contracts under 49 U.S.C. 10713, such transaction(s) shall be exempt from 49 U.S.C. 10761(a), 10762(a)(1), 11902, 11903, and 11904(a), subject to the conditions set forth in paragraphs (b) through (e) of this section.

(b) If any interested person(s) believes a transaction is eligible for inclusion in one or more contracts under